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David E Bennett
Coats & Bennett PLLC
PO Box 5
Raleigh, NC 27602

| EXAMINER |
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D AGOSTA, STEPHEN M

| ART UNIT | PAPER NUMBER |
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2683

DATE MAILED: 05/07/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/514,657

Applicant(s)

WAESTERLID, ANDERS

Examiner

Stephen M. D'Agosta

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-18 is/are allowed.
- 6) ☒ Claim(s) 1-7 and 19-25 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

In view of the appeal filed on 4-22-03, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

(3) **An appeal brief conference was held on 4-29-03 with Bill Cumming, Nay Maung and Stephen D'Agosta in attendance. They agreed that claims 10-18 would be allowed, claim 8 would be objected to and all others would be rejected based on new art (Perkins, US 5,412,654). Stephen D'Agosta called applicant's attorney (Steve Herrera) on 4-30-03 and finalized that a new rejection would be sent.**

Response to Amendment

The amendment filed on 10/16/02 under 37 CFR 1.131 has been considered but is ineffective to overcome the Borgstahl reference.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-25 rejected under 35 U.S.C. 103(a) as being unpatentable over Borgstahl et al. WO98/17032 above, and further in view of Rosenberg et al. IETF Internet Draft **and Perkins US 5,412,654** (hereafter referred to as Borgstahl and Rosenberg **and Perkins**).

As per **claim 1**, Borgstahl teaches a peer-to-peer network (pg. 1, L7) for allowing members/peers to send/receive status information (figures 3-5 and 7) from other members/peers [pg. 5, L19-21] comprising:

b. storing in ~~a member's~~ each individual member's communication device, status information concerning each other members of the affinity group (figure 2, memory #42 stores personalization data)

d. receiving status update (figure 2, #36/#38 is transmit/receive hardware)

e. updating status information in a member's communication device when a status update message concerning said any member received. (figure 2, shows memory that can be updated).

but is silent on

a. forming an affinity group that contains two or more members

c. when status of a any member changes, sending a status update message whose status has changed to said each other member of said affinity group.

Rosenberg teaches an event notification service that allows a user to subscribe to some entity which has a "state" [as per letter "c" above]. The subscription is a request to be informed about changes to the state such that a notification is delivered if a state change occurs. The applicability is extremely broad and events include presence information, device status, log-in/off events, etc.. Rosenberg's use of a log-on

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event is consistent with the use of an affinity group and parallels other affinity group software systems such as CHAT, ICQ, Microsoft ILS, etc.. [as per letter "a" above] (pg. 1, introduction).

Perkins teaches a system for data packet transmission between mobile stations whereby each mobile stores routing tables based on received broadcasts from other mobiles and retransmission of new routing tables by each mobile to neighboring hosts is performed as routes change (C31, L54-70 to C32, L33-47).

It would have been obvious to one skilled in the art at the time of the invention to modify Borgstahl, such that an affinity group is used and a status message is sent when changed, to provide each wireless member with up-to-date information about the network for ease-of-use.

As per **claim 2**, Borgstahl teaches claim 1, wherein status information comprises a plurality of status items (figures 3-5, 7 and page 10, L30-35).

As per **claim 3**, Borgstahl teaches claim 2, **but is silent on** wherein status information includes at least on/off status of member, activity status of member and location of member. Borgstahl does teach that a connection attempt can fail (which may be because a member/peer is "off") [pg. 9, L36-38] and that the connection usually occurs because a user is proximate (but the exact location is not discerned) [pg. 9, L25-28].

Rosenberg teaches that an event notification can include device status (eg. on/off), presence information (eg. location) and activity (eg. just logged on, just logged off, etc.) [page 1, introduction].

It would have been obvious to one skilled in the art at the time of the invention to modify Borgstahl, such that status information includes on/off, activity and location of member, to provide up-to-date information about the affinity group members to other members.

As per **claim 4**, Borgstahl teaches claim 2, **but is silent on** wherein each individual selects status items from a list of available status items that are reported to other members each other member of the affinity group. Borgstahl teaches lists of devices a user can connect to as well as user configurable personalization data (figure 3-5, 7 and page 11, L13-21).

Rosenberg teaches that a user can receive status updates based upon virtually any trigger that they configure/customize (eg. notify me when event X in state machine Y occurs if the day is Tuesday and the temperature in Zimbabwe is 85 degrees Fahrenheit – page 1, introduction). One skilled in the art would provide a list of commonly used triggers to allow a user to quickly configure their device with an initial set of triggers.

It would have been obvious to one skilled in the art at the time of the invention to modify Borgstahl, such that a user can select from a list of status items, to provide a

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quick/easy/user-friendly way to setup the user's communication device to gather other affinity member status data.

As per **claim 5**, Borgstahl teaches claim 2 further including the step providing updates if/when two users are proximate, based upon a schedule or triggered upon the expiration of a fixed or random timer [abstract and page 10, L2-10] (eg. designating a period during which status updates are enabled).

As per **claim 6**, Borgstahl teaches claim 2 and the fact that the user can restrict access to the peer through the network. Since one facet of the invention is a point-of-sale capability which may require "an extensive authorization process before permitting a transaction to take place" (page 12, L16-27) and the fact that the invention can use a periodic schedule (page 10, 2-3), one skilled in the art would provide the step of designating a period during which status updates are suppressed.

As per **claim 7**, Borgstahl teaches claim 1 **but is silent on** further including the step of automatically detecting status changes of a member and sending status update messages to said each other member of said affinity group when a status changed is detected.

Rosenberg teaches an event notification service whereby a notification is delivered asynchronously to the subscriber when a state change occurs (page 1, introduction).

It would have been obvious to one skilled in the art at the time of the invention to modify Borgstahl, such that the system automatically detects status changes and sends status update messages, to automatic affinity member status updates to each user without having them having to manually query the system for said updates.

As per **claim 9**, Borgstahl teaches claim 7, **but is silent on** wherein the status of a member is monitored by a centralized server in said communication network and wherein status update messages are transmitted to other members in said affinity group when a member's status changes.

Rosenberg teaches (in figure 1) a server(s) that is used for communications between subscribers, the publisher and database/policy server. The examiner interprets this figure as having a centralized server that monitors affinity group members and notifies them when member status changes.

It would have been obvious to one skilled in the art at the time of the invention to modify Borgstahl, such that a member is monitored by a centralized server and status updates are transmitted to other members if status changes, to provide a central repository of all member status data and can be centrally administered.

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As per **claim 19**, Borgstahl teaches a peer-to-peer wireless network (pg. 1, L7 and pg 6, L4-5) for allowing members/peers to send/receive status information (figures 3-5 and 7) from other members/peers [pg. 5, L19-21] comprising:

a. memory for storing in a member's wireless communication device, status information concerning other members of the affinity group (figure 2, wireless device and memory #42 stores personalization data)

b/c. a transmitter/receiver responsive for transmitting status update messages to other members (figure 2, #36/#38)

d. a processor operatively connected to said memory for writing/reading status to/from memory (figure 2, #40), processor programmed to:

2. update said status information stored in said memory when a status update message is received from another member of said affinity group (figure 2, shows memory that can be updated).

but is silent on

an affinity group,

1. generate a status message when member's status changes for transmission to ~~other~~ each other member members of said affinity group

Rosenberg teaches a client/centralized server (figure 1) event notification service that allows a users to subscribe to some entity which has a "state" [as per letter "c" above]. The subscription is a request to be informed about changes to the state such that a notifications are delivered among users if a state change occurs. The applicability is extremely broad and events include presence information, device status, log-in/off events, etc.. Rosenberg's use of a log-on event is consistent with the use of an affinity group and parallels other affinity group software systems such as CHAT, ICQ, Microsoft ILS, etc.. [as per letter "a" above] (pg. 1, introduction).

Perkins teaches a system for data packet transmission between mobile stations whereby each mobile stores routing tables based on received broadcasts from other mobiles and retransmission of new routing tables by each mobile to neighboring hosts is performed as routes change (C31, L54-70 to C32, L33-47).

It would have been obvious to one skilled in the art at the time of the invention to modify Borgstahl, such that an affinity group is used and a status message is sent when changed, to provide each wireless member with up-to-date information about the network for ease-of-use.

As per **claim 20**, Borgstahl teaches claim 19, wherein status information comprises a plurality of status items (figures 3-5, 7 and page 10, L30-35).

As per **claim 21**, Borgstahl teaches claim 20, **but is silent on** wherein status information includes at least on/off status of member, activity status of member and location of member. Borgstahl does teach that a connection attempt can fail (which may be because a member/peer is "off") [pg. 9, L36-38] and that the connection usually occurs because a user is proximate (but the exact location is not discerned) [pg. 9, L25-28].

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Rosenberg teaches that an event notification can include device status (eg. on/off), presence information (eg. location) and activity (eg. just logged on, just logged off, etc.) [page 1, introduction].

It would have been obvious to one skilled in the art at the time of the invention to modify Borgstahl, such that status information includes on/off, activity and location of member, to provide up-to-date information about the affinity group members to other members.

As per **claim 22**, Borgstahl teaches claim 19, **but is silent on** wherein each individual selects status items from a list of available status items that are reported to ~~other members~~ each other member of the affinity group. Borgstahl teaches lists of devices a user can connect to as well as user configurable personalization data (figure 3-5, 7 and page 11, L13-21).

Rosenberg teaches that a user can receive status updates based upon virtually any trigger that they configure/customize (eg. notify me when event X in state machine Y occurs if the day is Tuesday and the temperature in Zimbabwe is 85 degrees Fahrenheit – page 1, introduction). One skilled in the art would provide a list of commonly used triggers to allow a user to quickly configure their device with an initial set of triggers.

It would have been obvious to one skilled in the art at the time of the invention to modify Borgstahl, such that a user can select from a list of status items, to provide a quick/easy/user-friendly way to setup the user's communication device to gather other affinity member status data.

As per **claim 23**, Borgstahl teaches claim 19 further including the step providing updates if/when two users are proximate, based upon a schedule or triggered upon the expiration of a fixed or random timer [abstract and page 10, L2-10] (eg. designating a period during which status updates are enabled).

As per **claim 24**, Borgstahl teaches claim 19 and the fact that the user can restrict access to the peer through the network. Since one facet of the invention is a point-of-sale capability which may require "an extensive authorization process before permitting a transaction to take place" (page 12, L16-27) and the fact that the invention can use a periodic schedule (page 10, 2-3), one skilled in the art would provide the step of designating a period during which status updates are suppressed.

As per **claim 25**, Borgstahl teaches claim 19 **but is silent on** further including the step of automatically detecting status changes of a member and sending status update messages to said each other member of said affinity group when a status changed is detected.

Rosenberg teaches an event notification service whereby a notification is delivered asynchronously to the subscriber when a state change occurs (page 1, introduction).

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It would have been obvious to one skilled in the art at the time of the invention to modify Borgstahl, such that the system automatically detects status changes and sends status update messages, to automatic affinity member status updates to each user without having them having to manually query the system for said updates.

Allowable Subject Matter

Claims 10-18 allowed.

Claim 8 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 8: Borgstahl does not disclose the status of a member is monitored by said member's communication device and wherein said communication device is programmed to automatically transmit a status update message to said each member of said affinity group when a change in status is detected.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. D'Agosta whose telephone number is 703-306-5426. The examiner can normally be reached on M-F, 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Trost can be reached on 703-308-5318. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7493 for regular communications and 703-746-7493 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.

SMD
May 2, 2003


WILLIAM TROST
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600